

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

John Sarkisian
1336 South Main Street
Royal Oak, MI 48067

Enforcement Case No. 07-4995

Respondent

Issued and entered,
on 23 May 2007
by Frances K. Wallace,
Chief Deputy Commissioner

CONSENT ORDER

**I.
BACKGROUND**

Fortress Home Mortgage, Inc. is a Michigan domiciled corporation, organized under the laws of the state of Michigan, that has made applications for licensure as a mortgage broker under the Mortgage Brokers, Lenders, and Servicers Licensing Act ("MBLSLA"), Act No. 173 of 1987, as amended, MCL 445.1651 *et seq.*, and a registration under the Secondary Mortgage Loan Act, Act No. 125 of 1981, as amended, MCL 493.51 *et seq.* John Sarkisian ("Respondent") is the sole officer/director/shareholder of Fortress Home Mortgage, Inc. Respondent is not presently licensed by the Office of Financial and Insurance Services ("OFIS") pursuant to the MBLSLA or any other consumer finance statute regulated by OFIS. In reviewing Respondent's application, OFIS staff determined that Respondent was already conducting

mortgage-related activities, which require licensure as a mortgage broker under the MBLSLA. Respondent and OFIS staff have conferred and have agreed to resolve this matter according to the terms set forth below.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. In a Personal Disclosure Statement submitted to OFIS by Fortress Home Mortgage, Inc. on or about December 18, 2006, Respondent indicated that from April 2003 to present a licensee, Mortgage Institute of Michigan (Mortgage Institute), employed him as a loan officer. During Respondent's alleged employment with Mortgage Institute, Respondent originated loans for Mortgage Institute. Contrary to Respondent's assertion that he is an employee of Mortgage Institute, Respondent is an independent contractor. In fact, Respondent received nonemployee compensation in the amount of \$88,787.07 for 2004, \$80,709.00 for 2005 and \$44,083.99 for 2006, from Mortgage Institute.

2. Section 2 of the MBLSLA proscribes Respondent from receiving compensation from Mortgage Institute unless he is solely performing services as an employee of either Mortgage Institute, or meets any of the exceptions enumerated in Section 2 of the MBLSLA. Respondent does not meet any of exceptions specified in Section 2 of the MBLSLA and, consequently, Respondent's receipt of nonemployee compensation for originating mortgage loans is a violation of the MBLSLA.

3. Section 2(1) of the MBLSLA prohibits a person from acting as a mortgage broker, mortgage lender, or mortgage servicer without first obtaining a license or registration.

4. Section 2(3) of the MBLSLA prohibits a residential mortgage loan originator (also known as a loan officer) from receiving directly or indirectly any compensation, commission, fee, points or other remuneration from a mortgage broker, mortgage lender, or mortgage servicer

other than his/her employer.

5. Based on the forgoing, Respondent has conducted business as a loan originator without the requisite license or registration certificate required under Section 2 of the MBLSLA.

III. ORDER

It is ORDERED that:

1. Respondent shall cease and desist violating Section 2 of the MBLSLA.
2. Respondent shall pay to OFIS an applicable civil penalty of \$1,000.00. The fine shall be paid within 30 days of the date of entry of this Order.
3. Respondent, as the sole officer/director/shareholder of Fortress Home Mortgage, Inc., shall establish and maintain a program to monitor and ensure compliance with all state and federal consumer laws and regulations relating to all mortgage activity conducted by Fortress Home Mortgage, Inc.
4. Respondent, as the sole officer/director/shareholder of Fortress Home Mortgage, Inc., shall educate himself and all employees of Fortress Home Mortgage, Inc. with respect to all state and federal consumer laws and regulations, including the Mortgage Brokers, Lenders, and Servicers Licensing Act.
5. Respondent shall review and ensure that Fortress Home Mortgage, Inc., complies with the OFIS Consumer Finance Bulletin No. 2003-09-CF, posted on the OFIS website, which clarifies OFIS's position on employees and branch offices in Michigan.
6. Respondent, as the sole officer/director/shareholder of Fortress Home Mortgage, Inc., shall immediately designate a compliance officer for Fortress Home Mortgage, Inc., and provide written notification to OFIS of the compliance officer's name and business address, to ensure that Fortress Home Mortgage, Inc., is in compliance with all applicable state and federal

laws. Respondent's written notice designating a compliance officer shall accompany Fortress Home Mortgage, Inc.'s payment of a civil fine as provided for in Paragraph 2 of this Order. Respondent, as the sole officer/director/shareholder of Fortress Home Mortgage, Inc., shall notify the Office of Financial and Insurance Services of any change in designation of the compliance officer within 30 days of such re-designation.

7. Respondent, as the sole officer/director/shareholder of Fortress Home Mortgage, Inc., shall not utilize independent contractors for mortgage loan origination unless they are: 1) licensed or registered under the MBLSLA; 2) exempted from the MBLSLA under Section 25; or 3) licensed as a class I licensee under the Consumer Financial Services Act.

The Chief Deputy Commissioner retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as she shall deem just, necessary, and appropriate in accordance with the provisions of the MBLSLA. Failure by Respondent to abide by the terms and provisions of this Order may result in the commencement of additional proceedings.



Frances K. Wallace
Chief Deputy Commissioner